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ATTORNEYS FOR MOVANT
TX-12-11714

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

IN RE:	§	CASE NO. 10-70010
DANIEL COLE CANTRELL AND RAYNEE AMBER	§	
CANTRELL	§	CHAPTER 13
DEBTORS	§	
	§	A HEARING HAS BEEN SET ON THIS
LAKEVIEW LOAN SERVICING, LLC, ITS	§	MOTION FOR: 8/21/2013 AT 10:00 AM
ASSIGNEES AND/OR SUCCESSORS, BY AND	§	
THROUGH ITS SERVICING AGENT M&T BANK	§	
MOVANT	§	
	§	
VS.	§	
	§	
DANIEL COLE CANTRELL AND RAYNEE AMBER	§	
CANTRELL	§	
DEBTORS	§	
AND WALTER O'CHESKEY, TRUSTEE		
RESPONDENTS		

**MOTION OF LAKEVIEW LOAN SERVICING, LLC, ITS ASSIGNEES AND/OR
SUCCESSORS, BY AND THROUGH ITS SERVICING AGENT M&T BANK, FOR
RELIEF FROM STAY OF AN ACT AGAINST PROPERTY**

RULE 4001(b) NOTICE

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED
TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED
ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED
BY DEFAULT.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF
THE UNITED STATES BANKRUPTCY COURT AT 1100 COMMERCE STREET –
ROOM 1254, DALLAS, TEXAS 75242-1496, BEFORE CLOSE OF BUSINESS ON**

AUGUST 8, 2013 WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED ON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE “ADEQUATELY PROTECTED” IF THE STAY IS TO BE CONTINUED.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW LAKEVIEW LOAN SERVICING, LLC, ITS ASSIGNEES AND/OR SUCCESSORS, BY AND THROUGH ITS SERVICING AGENT M&T BANK (hereinafter Movant), a secured creditor and party in interest to the above-styled proceeding, and files this its Motion for Relief from Stay of Act Against Property. In support of its Motion, Movant would respectfully show onto the Court as follows:

I. JURISDICTION

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §1334 and 11 U.S.C. §105 and 362.
2. This is a core proceeding under 28 U.S.C. §157(b)(2)(G).

II. FACTS

3. On or about January 14, 2010, Daniel Cole Cantrell and Raynee Amber Cantrell, hereinafter referred to as the Debtor, whether one or more, filed a Voluntary Petition For Relief under Chapter 13 of the Bankruptcy Code, thereby initiating the above-styled bankruptcy proceeding. Walter O'Cheskey is the duly appointed and acting trustee.
4. On October 7, 2009, Daniel Cole Cantrell and Raynee Amber Cantrell executed a Promissory Note, hereinafter referred to as the Note, in the original principal amount of \$74,132.00, payable to the order of Allied Home Mortgage Capital Corporation, a Texas Corporation. Movant

is currently the legal owner and holder of the Note.

5. Concurrently with the execution of the Note, Daniel Cole Cantrell and Raynee Amber Cantrell executed a Security Instrument, hereinafter referred to as the Security Instrument, granting Movant a lien on certain real property, hereinafter referred to as Property, to secure payment of the Note. The Security Instrument grants Movant a lien on the Property described as follows:

LOT NO. SEVEN A (7-A), BLOCK NO. ONE HUNDRED FIFTY-SEVEN (157), REPLAT OF LOTS 1-8 & 17-24, ORIGINAL TOWNSITE OF IOWA PARK, WICHITA COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 24, PAGE 66, WICHITA COUNTY PLAT RECORDS.

Also known as: 708 S Park Avenue, Iowa Park, TX 76367.

The Deed of Trust was duly recorded in the Wichita County Deed Records. A true and correct copy of the Security Instrument is attached hereto as Exhibit "2" and incorporated herein for all purposes.

6. Debtor is the current owner of record of the Property.

7. Debtor is in default on the obligation to Movant in that Debtor has failed to make monthly installment payments when due and owing pursuant to the terms of the above-described Note.

8. As of June 27, 2013, the status of the indebtedness is as follows:

a. Debtor is due for the post-petition payments as follows: May 2012 through February 2013 monthly mortgage payments of \$651.29; plus March 2013 through June 2013 monthly mortgage payments of \$665.03 each; LESS \$8.04 suspense. The unpaid principal balance at the time of filing amounted to \$71,835.04.

III. RELIEF FROM THE STAY

9. Movant requests that the Honorable Court terminate the automatic stay pursuant to the provisions of the Bankruptcy Code to allow Movant to exercise all of its rights and remedies against the Debtor under state law, including, inter alia, foreclosing its lien on the Property. Good cause exists for the lifting of the automatic stay because the Debtor has little or no equity in the property. In addition, as this is a Chapter 13 proceeding and Debtor is not receiving income from the property, the property is not necessary for an effective reorganization.

10. In the alternative, Movant alleges that cause exists for the lifting of the stay in that Debtor has not offered Movant adequate protection for its interest in the Property.

11. Movant requests that an Order granting its motion for relief from automatic stay, if such Order should be entered, will be effective immediately upon entry and, pursuant to Rule 4001(a)(3) of the Rules of Bankruptcy Procedure, enforcement of such Order will not be stayed until the expiration of ten days after entry of the Order.

WHEREFORE, PREMISES CONSIDERED, Movant prays that the Court enter an Order granting relief from the automatic stay to allow Movant to exercise and enforce all its rights and remedies against the Debtor as a secured creditor and perfected lienholder to the Property, including, but not limited to, payment of bankruptcy attorney fees and costs, foreclosure and disposition of the Property, payment of costs, expenses, and reasonable attorneys' fees in accordance with the terms of the Note and Security Instrument, and for such other relief to which Movant may

show itself justly entitled, either at law or in equity.

Dated: July 25, 2013

Respectfully Submitted,

McCARTHY, HOLTHUS & ACKERMAN, LLP

/s/ Lance Erickson

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Atty File No.: TX-12-11714

ATTORNEYS FOR MOVANT

CERTIFICATE OF CONFERENCE

COMES NOW Lance Erickson, Attorney for Movant, and affirms that a conference call was placed to Monte J. White, counsel for Debtor, on June 10, 2013 at 3:05 p.m. Monte White did not return messages left.

McCARTHY, HOLTHUS & ACKERMAN, LLP

/s/ Lance Erickson

Lance Erickson

Atty file no.: TX-12-11714

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Relief from Stay of Act Against Property was served on the parties at the addresses listed on the attached matrix by electronic means where available or by deposit in the United States Mail, first class postage prepaid, on this the July 25, 2013.

McCARTHY, HOLTHUS & ACKERMAN, LLP

/s/ Lance Erickson

Lance Erickson

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